

Remarks

Applicant elected Group I in the response filed August 27, 2008. Applicant requests reconsideration of the restriction requirement in view of the present amendments to the withdrawn claims, which now relate to a single general inventive concept by incorporation of a control device.

Claims 1, 2, 5, 10 and 11 were rejected as being anticipated under 35 U.S.C. 102(b) by JP 11-245306 (10-051177). In response, Claim 1 has been amended and the following remarks are submitted. JP 11-245306 ("306") shows a stereolithography device that includes a lower container 2 and an upper container 4 (see Figs 1 to 3). A laser beam 13 is directed via a focusing device 15 and a mirror 16 onto the respective building planes of either the first container 2 or the second container 4. In order to build a part in the second container 4, this second container 4 has to be moved in advance under the mirror (see Fig. 1). In order to do this, it is necessary to insert a rail part 11 (see Figs. 2 and 3.) into the device, so that the second container 4 can be moved under the mirror 16.

The operation of the whole '306 device is as follows: First a building process is completed, for example, in the first container 2. After the completion of this building process, the second container 4 can be moved under the mirror 16 and a building process can take place in this second container. For this second building process, it is necessary to choose a different lens 5b in the focusing device 15, especially for the second container. Contrary to the assertion of the Examiner, the "optical switch" 14 only functions to switch the laser 13 on or off.

In the cited '306 document, the feature is missing that a switching device switches the radiation between the first container and the second container. Even if the

focusing unit 15 was regarded as an optical switching device, by such a switching device only the focus of the radiation would be changed. However, the beam would not be switched from one container to another container, and as the '306 document teaches, it is additionally necessary to mechanically move the second container 4.

By the amendment to Claim 1 submitted herein, it has been clarified that a switching device indeed switches the pathway of the radiation and does not mechanically move any parts such as containers as taught by the '306 document.

Since, as demonstrated above, the '306 document lacks all of the elements of Claim 1, it cannot anticipate Claim 1 or any claim which depends therefrom. The rejection under 35 U.S.C. § 102(b) should be withdrawn.

Claims 3, 6-8 and 19-20 were rejected under 35 U.S.C. 103(a) as being unpatentable over the '306 application and more specifically combined with official notice with respect to Claims 3, 6, 7, 8 and 20.

With respect to Claims 3, 6-8 and 19-20, the Action has not supplied the deficiencies noted above (in the remarks addressing the rejection under 35 U.S.C. § 102(b)). Thus, there is no *prima facie* case of obviousness. Since there is no *prima facie* case of obviousness, and the Action does not elsewhere supply the deficiencies of the '306 document, the Action does not support a rejection under 35 U.S.C. 103(a). Therefore, the claims are not rendered obvious and the rejection should be withdrawn.

Furthermore, the Applicant does not concede any of the assertions regarding official notice or the duplication of parts assertion. As shown above, the Action does not demonstrate a case of *prima facie* obviousness. And it is not appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable

demonstration as being well-known. For example, Applicant particularly disagrees with the Examiner's conclusory statement, referring to Claim 6 and 20, that it is well known and conventional to provide separate process chambers (in a device for layerwise generative production of three-dimensional objects by action of electromagnetic or particle radiation).

With respect to the duplication of parts rational, the at least two building regions of the present invention provide benefits that would not be realized if a mere duplication of parts was being provided in the claimed device. To assert this as a rejection ignores the requirement to consider the claimed device as a whole.

Still, since there is no case of anticipation and no *prima facie* obviousness established, the claims of the present application should be allowed over the prior art of record and the Applicant requests reconsideration and a prompt indication that all claims are allowed.

Respectfully submitted,

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